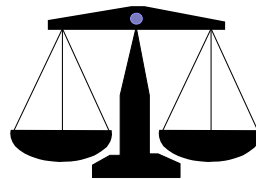


CITY OF CINCINNATI



Eighth Status Report to the Independent Monitor

May 12, 2004



Cincinnati Police Department

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Table of Contents

I.	Introduction	Page 2
II.	General Policies	Page 4
III	Use of Force Policy	Page 7
IV.	Incident Documentation, Investigation and Review	Page 11
V.	Citizen Complaint Process	Page 13
VI.	Management and Supervision	Page 17
VII.	Training	Page 22

I. INTRODUCTION

In April 2001, the Mayor of Cincinnati, and other interested persons within the City, requested the United States Department of Justice (DOJ) to conduct a review of the Cincinnati Police Department's (CPD) policies and procedures, specifically those that related to the uses of force. This request indicated the City's commitment to minimizing the risk of excessive use of force in the CPD and to promoting police integrity. In response to these requests, the DOJ launched an investigation pursuant to authority granted under 42 U.S.C. 14141, the Violent Crime Control and Law Enforcement Act of 1994.

The DOJ's investigation, conducted with the full cooperation of the City, included extensive interviews with City and CPD officials, CPD officers, leaders of the Fraternal Order of Police (FOP) and the African-American police officers' association (Sentinels), community members and civil rights organization representatives.

At the close of the investigation, which lasted approximately one year, the DOJ determined that the jurisdictional requirements of 42 U.S.C. 14141 were sufficiently satisfied to permit the Parties to enter into the **Memorandum of Agreement (MOA)**. As a result of the City's and the CPD's high level of voluntary cooperation and willingness to implement meaningful change, the DOJ believed the MOA, rather than contested litigation, represented the best opportunity to address the DOJ's concerns. On April 11, 2002, history was made in the City of Cincinnati. The City of Cincinnati and the United States Department of Justice entered into the landmark Agreement.¹

At the same time, representatives for the City, the Cincinnati Black United Front (CBUF), the American Civil Liberties Union of Ohio (ACLU), and the Fraternal Order of Police (FOP) executed the **Collaborative Agreement (CA)**. Brought about in part by a series of legal actions citing patterns of discrimination by police, this latter Agreement also served as an alternative to court litigation. Under this Agreement the Federal District Court introduced a process where various stakeholders in the community could examine the broader social conflicts in the City by gathering the views of as many citizens as possible on improving the relationship between police officers and the community. Through the distribution of questionnaires and a series of public meetings involving different segments of the community, the following goals became the cornerstones of the Collaborative Agreement:

¹ Neither the City's entry into this Agreement, nor its decision to implement changes in CPD policies and procedures is an admission by the City, the CPD, or any officer or employee of either, that any of them have engaged in any unconstitutional, illegal, or otherwise improper activities or conduct.

1. Police officers and community members will become proactive partners in community problem solving.
2. Police officers and community members will build relationships of respect, cooperation, and trust within and between the police and the citizens.
3. Police officers and community members will work to improve education, oversight, monitoring, hiring practices, and accountability of the Cincinnati Police Department.
4. Police officers and community members will ensure fair, equitable, and courteous treatment for all by members of the police department.
5. Police officers and community members will create methods to establish the public's understanding of police policies and procedures and to recognize exceptional service provided by members of the police department.

Implementation of both Agreements will not only reform police practice, but will enhance trust, communication, and cooperation between the police and the community. The settlements have fostered a union that has motivated all segments of the community to come together and focus on building the positive and productive relations necessary to maintain a vibrant city core and surrounding metropolitan area. The City of Cincinnati is enthusiastic and committed to this endeavor and has already begun initiatives to involve virtually all City departments in the process.

The two Agreements will be overseen by an Independent Monitor. Consistent with the consensus decision-making process incorporated in the collaborative process, all collaborative partners unanimously selected the independent monitor.

I. GENERAL POLICIES

A. Mental Health Response Team (MHRT)

The MOA's requirements with regard to the MHRT are located at paragraph 10.

Monitor's Previous Assessment

- In the most recent status report, the Monitor concluded CPD policies, training and coverage met the MOA requirements.

Status Update

➤ *Training*

CPD is still in the process of finalizing a contract with Mental Health Associates to conduct recertification training for the existing MHRT officers. To date, the administrative procurement regulations have been waived allowing CPD to begin work on contract development. Once this process is completed, the Training Section has proposed the following tentative schedule of training:

2004

3 In-Service Training Sessions for existing MHRT Officers
1 New MHRT Training Class – Approximately 30 Officers

In the event that members of the Monitoring Team wish to attend, the Training Section will forward the final training schedule.

➤ *MHRT Availability*

CPD continues to track the number of MHRT officers deployed on a daily basis. The tracking process allows CPD to take a look at MHRT staffing levels by shift, district, and department-wide. According to the January, February, and March staffing reports, CPD was able to provide consistent MHRT service. The MHRT staffing reports are included in Appendix Item 1.

➤ *MHRT Officer Dispatch Summary*

Effective May 1, 2003, Police Communications Section began to record the dispatch disposition of MHRT officers to all calls involving suspected mentally ill individuals. When dispatching these calls, the dispatcher will make an entry into a designated field for all MHRT calls, indicating one of the following dispositions:

MHD – A MHRT unit was dispatched to the call

MHNA – A MHRT unit was not dispatched because all MHRT units city-wide were busy.

MHNW – There were no MHRT units working in the city.

During this reporting period, CPD received 1,402 calls involving mentally ill persons. In 865 of those instances, MHRT officers were dispatched to handle the situation. For these months, there were only 20 instances where an MHRT

officer was not available for dispatch and 1 instance in which a MHRT officer was not working. A monthly analysis of these calls is included in Appendix Item 2.

During a recent visit by the Monitoring Team, specific factors that impact MHRT response were discussed. Although the final entry for the call may be coded as MHRT, the initial call may have been entered as a different incident type. Once responding officers made the determination that the situation involved a suspected mentally ill individual, the call was re-coded accordingly. In other instances, CPD response may have not been deemed appropriate and the call was either cancelled or referred to another agency. In either of these events, MHRT officers may not have been dispatched. These situations accounted for 337 of the 1402 total calls classified as MHRT incidents. Accordingly, CPD believes the total number of incidents subject to MHRT dispatch is 1,065, which translates into an average dispatch rate of 81.2%.

➤ **Mobile Crisis Team Workers**

The Psychiatric Emergency Services Department of University Hospital has established a partnership with CPD that has enabled Mobile Crisis Team personnel to work from and in conjunction with the police districts. Currently, the program operates in Districts One and Five. In April 2004, the Hamilton County Mental Health Board released a status report on the Mobile Crisis Team operations in District One. The report outlines the functions of the Mobile Crisis Team and summarizes their activity for the 2003 year. The report is included in Appendix Item 3.

For the first quarter of 2004, statistics were maintained for individuals in both districts who could be identified as being in need of mental health services. Identification is made through an incident history, police reports (Form 316), or by hospital records. Information regarding the number of MHRT runs handled by police, the Mobile Crisis Team, or a combination of both is also tabulated. Once an individual has been identified, social demographic data regarding the subject and the outcome of each incident is documented and entered into a database in each of the districts.

	District One	District Five
Total Calls	246	219
Outside Team Hours	162	120
During Team Hours	84	99
CPD Only	178	133
Mobile Crisis Team Only	17	35
CPD and Mobile Crisis Team	51	51
Total Individuals Identified	181	155
Mobile Crisis Team Consultations	12	7

B. Foot Pursuit

The provisions of the MOA related to foot pursuit are located in paragraph 11.

Monitor's Previous Assessment

The Monitor found the foot pursuit policy and the documentation of the supervisor's review of these foot pursuits in the various incident reports are in compliance with the MOA but, found CPD overall to be in partial compliance based on the following observations:

- There were a limited number of incidents where the circumstances of the foot pursuit suggest that the officer did not consider the factors set out in the MOA and CPD policy.

Status Update

The MOA required CPD to develop a foot pursuit policy which includes provisions outlined in MOA paragraph 11. At the request of the Monitor, CPD agreed to adopt the supervisory review process for those incidents involving foot pursuits. As noted in the previous status report, CPD reviewed the process with supervisory personnel in a block of instruction titled Use of Force, MOA Policy, and Incident Management, which was included as part of Management Training held in the fall of 2003.

The foot pursuit section of the Tactical Patrol Guide was also reviewed with Department personnel as part of the March 2004 Roll Call Training Program.

Appendix Information (Document Description – Exhibit Number)

- | | |
|---|---|
| • MHRT Deployment Summary | 1 |
| • MHRT Dispatch Summary | 2 |
| • Mobile Crisis Team Internal Evaluation for District One | 3 |

II. USE OF FORCE POLICY

A. General Use of Force Policies

The MOA's requirements pertaining to use of force are located in paragraphs 12 and 13.

Monitor's Previous Assessment

The Monitor concluded CPD's current Use of Force policy is in compliance with the MOA.

Status Update

On March 2, 2004, CPD implemented the most recent revisions to Procedure 12.545, Use of Force. The most significant changes to the policy involve the deployment of the new X-26 Taser. The policy authorizes personnel to utilize the taser to control actively resisting subjects, aggressive non-compliant subjects, violent or potentially violent subjects. Unless it would present a danger to the officer, the policy directs officers to issue a verbal warning prior to taser deployment. To avoid injuries due to falls, the policy restricts taser deployment on obviously pregnant females, persons over 70 and under 7 years of age and individuals situated on an elevated surface. Generally, the Cincinnati Fire Department will be summoned to evaluate and provide the necessary medical treatment for the suspect. Should the taser darts become embedded in soft body tissue areas or any area above the collar bone, officers will transport the suspect to the hospital for evaluation and dart removal.

On January 20, 2004, the Department initiated the eight hour training course for the X-26 taser. Since that time, approximately 50 officers have been trained each week. The training consists of tactical taser exercises, familiarization and classroom instruction, which includes review of CPD's revised use of force policy.

As of March 31, 2004, 566 officers have been trained and equipped with the new taser. Of the 556 officers, 440 submitted to a voluntary exposure of the 5 second taser cycle. Full implementation is expected to be achieved by the end of July, 2004.

CPD authored a taser implementation report reflecting taser deployments for the first quarter of 2004. The report was prepared for presentation to the City's elected officials and is included in Appendix Item 4.

Use of Force statistics for the current reporting period have been included in Appendix Item 5.

B. Chemical Spray

MOA provisions pertaining to chemical spray are found at paragraphs 14, 15 and 16.

Monitor's Previous Assessment

In the report, the Monitor indicated CPD's chemical irritant policy is in compliance with the MOA. The Monitor also concluded that the duration, targeting and decontamination of the spray also met the MOA provisions. Upon review of sample investigations involving the use of chemical irritant, however, the Monitoring Team raised questions involving the following deployment issues:

- In some instances, verbalization before deployment is not documented in the incident report. For the incidents reviewed, twelve reports did not show an indication that the warnings were given.
- In the case of restrained individuals, the Monitor restated concerns about the use of chemical irritant for suspects attempting to destroy the rear prisoner compartments of police vehicles. The Monitor insists that the investigating supervisors fully determine the facts and assess whether the use of chemical spray in these instances is justified.

Status Update

At the request of the Monitor, CPD revised the Chemical Irritant report to add a section in which to enter the officer(s) degree of verbalization prior to deployment. For the 86 incidents involving the use of chemical irritant this reporting period, some degree of verbalization was involved in 83 of the instances. As anticipated in the MOA, there are situations in which circumstances are such that the issuance of the warning may not be possible. In those instances, CPD will continue to make an effort to document the extent of exigency involved.

In many of the cases involving combative prisoners in the rear of police vehicles, the individual is usually attempting to kick out compartment glass or is in some manner intentionally thrusting a body part (usually the head) against some part of the rear cruiser compartment. As stated in prior reports, CPD believes the potential for injury to the prisoner, and possibly even escape, is significant. Therefore, the use of chemical irritant appears justified under the MOA.

Chemical irritant deployment has been summarized in Appendix Items 6, 7, 8, 9, and 10.

C. Canines

The MOA provisions relating to canine policy are located in paragraph 20.

Monitor's Previous Assessment

The Monitor found that the current CPD Canine Policy meets the MOA provisions. After review of canine bite reports, the Monitor examined the following issues in depth:

- **Have the off-leash deployments been limited to commercial building searches, offenses of violence, or situations where the subject was believed to be armed?**

The Monitor indicated that each of these deployments were consistent with the MOA.

- **Were canine announcements made?**

Based on the lack of documentation, the CPD is not in compliance with this provision.

- **Was authorization from supervisor obtained?**

CPD was found to be in compliance with this provision.

- **Thoroughness of investigations**

CPD was found to be in compliance with this provision

- **Were bites consistent with MOA provisions?**

The Monitor believes that in one instance where a where a canine bite was involved the justification for the off-lead search was unclear.

Status Update

During this reporting period, CPD had only four incidents involving a canine bite, one of which was an off lead deployment. In that case, the dog was released from the lead to conduct a search of a commercial building.

For those incidents involving an actual canine bite, the documentation of canine announcements is easily discernable. For the three canine bites this quarter, there was only one instance in which the warnings were not issued. In this case the suspect was believed to be armed with a handgun. Once located, the suspect began to kick the dog, which prompted the bite. In cases involving canine deployments without a bite, however, this documentation is less apparent. Since the Canine Deployment Report (Form 18CD) is an abbreviated version of the Canine Bite Report (Form 18C), the officer is currently not required to proceed to and complete the canine warning portion of the report for deployments without bites. To remedy the situation, CPD will look at revising the Form 18CD to include the announcement information.

During this reporting period, canines were deployed in connection with 156 incidents. As a result, 15 individuals were located with 4 of those persons being bitten by the dog. This equates to a 26.7% unit bite ratio. The statistics generated by the Canine Deployment Database have been included in Appendix Items 11 and 12.

The canine bite ratio reports generated pursuant to MOA paragraph 20 are included in Appendix Item 13. These reports examine the following six-month periods:

August 1, 2003 – January 31, 2004
September 1, 2003 – February 29, 2004
October 1, 2003 – March 31, 2004

D. Beanbag Shotguns / 40mm Foam Rounds

The MOA provisions relating to beanbag shotguns and 40mm foam rounds are located in paragraphs 21, 22 and 23.

Monitor's Previous Assessment

The Monitor found CPD to be in compliance with the MOA requirements relating to beanbag shotgun and 40mm foam round deployments.

Status Update

During this reporting period, there was one incident in which the 40 mm foam round was used in conjunction with the pepperball launcher and the new X-26 taser. The situation involved a violent and mentally ill subject that refused to comply with responding officers.

During this reporting period there were 72 incidents in which the new X26 taser was deployed. In 57 of those incidents, the taser was successful in gaining compliance. Operator error was identified as the reason for continued non-compliance in 12 of the other taser deployments. In 26 other incidents, the mere threat of impending taser use was sufficient to gain compliance. Injuries sustained from taser use have been limited to those caused by the suspect falling immediately after deployment. Pepperball Launcher, 40 mm foam round, and taser deployments have been summarized in Table 24-1, which is included as Appendix Item 14.

Appendix Information (Document Description – Exhibit Number)

• CPD Taser Deployment Summary – First Quarter 2004	4
• Table 12-1 – Use of Force Summary	5
• Table 14-1 – Chemical Irritant Summary – Group Deployments	6
• Table 14-2 – Chemical Irritant Summary – Verbal Commands	7
• Table 14-3 – Chemical Irritant Summary – Decontamination	8
• Table 14-4 – Chemical Irritant Summary – Restrained Individuals	9
• Table 18-1 – Chemical Irritant Distribution	10
• Table 20-1 – Canine Deployment Summary	11
• Table 20-2 – Canine Bite Summary	12
• Canine Bite Ratio Report – (1/1/03 to 6/30/03)	13
• Canine Bite Ratio Report – (2/1/03 to 7/31/03)	13
• Canine Bite Ratio Report – (3/1/03 to 8/31/03)	13
• Table 24-1 Special Weapon Deployment Summary	14

III. INCIDENT DOCUMENTATION, INVESTIGATION & REVIEW

A. Documentation

The MOA provisions relating to documentation are located in paragraph 24.

Monitor's Previous Assessment

The Monitor found CPD to be out of compliance with the force incident reporting provisions. Specifically, the Monitor cited the following CPD reporting practices:

➤ **Form 18NC – Non-Compliant Suspect Arrestee Report**

The Monitor believes the report needs revisions to meet the MOA requirements. The first recommendation is the addition of a section to document the supervisor notification process. Second, the report must include the officer's narrative describing the events and the degree of force used. And finally, the report should capture recommendations made during the supervisory review process.

➤ **Takedowns with Injury**

According to the Monitor's assessment, CPD is required to execute the highest level of documentation for those incidents involving takedowns that also produce suspect injury. Currently, CPD is documenting these incidents on the Injury to Prisoner Report. Audio taped statements are not being conducted for these investigations.

Status Update

In a meeting with the Monitoring Team on January 21, 2004, CPD agreed to review the Non-compliant Suspect/Arrestee Report (Form 18NC). During this process, CPD will attempt to make revisions that will capture the information sought by the Monitoring Team. This was a new report created because of the MOA. Although the report is not currently entered into CPD's existing force database, they will be part of the Employee Tracking Solution.

MOA paragraph 24 speaks to the level of documentation required for the various force incidents. There appears to be questions as to the interpretation of this particular MOA provision, particularly as it relates to the audiotape statement requirement. At this time, CPD has nothing further to report on this issue.

B. Investigation

The MOA provisions relating to investigation are located in paragraphs 26, 27, 28, 29, 30, and 31.

Monitor's Previous Assessment

The Monitor found CPD's policies regarding the investigation of use of force incidents comply with the MOA. After reviewing a sample of use of force investigations, the Monitoring Team found CPD to be only in partial compliance citing the following issues:

- The investigations did not always evaluate the basis for the initial stop or seizure, and determine whether the officer's actions regarding the stop and seizure were within policy.
- The investigator's interviews often did not follow up on relevant areas of inquiry, and in some cases included leading questions.
- The investigators did not always make sufficient efforts to resolve material inconsistencies between witness statements and to make credibility determinations to resolve the investigation.

Status Update

As noted in the last status report, CPD provided the Monitor with the materials used for the 2003 Annual In-Service Training for supervisors. The training focused on the supervisor's goals and responsibilities when conducting these investigations. The training also highlighted the MOA force reporting requirements and policy changes. CPD believes the training will assist supervisors in improving upon the issues raised above by the Monitor.

C. Review of Critical Firearms Discharges

The relevant provisions of the MOA are located at paragraphs 32, 33 and 34.

Monitor's Previous Assessment

CPD's policy on critical firearms discharges complies with the MOA. In previous reports, the Monitor also concluded that the Board reports are in compliance with the MOA requirements regarding firearms discharge investigations and FDB reports.

Status Update

During this reporting period, CPD has had four incidents involving a critical firearm discharge. These incidents have not yet cleared the administrative review process. Upon completion, the Board will begin its review. The Firearm Discharge Board has completed the hearing process for the one incident from the third quarter of 2003. This investigation is pending final review and approval. On February 1, 2004, the Firearms Discharge Board prepared a report reviewing critical firearm discharges reviewed for the 2003 year. The report is included in Appendix Item 15.

Appendix Information (Document Description – Exhibit Number)

- 2003 Firearms Discharge Board Summary

15

IV. CITIZEN COMPLAINT PROCESS

A. Openness of the Complaint Process

Paragraphs 35 and 36 of the MOA deal with the openness of the complaint process.

Monitor's Previous Assessment

The Monitoring Team reviewed a sample of citizen complaints this quarter and cited two instances where the complainant alleged they were discouraged from initiating a citizen complaint. Apparently, the supervisor urged the complainant to pursue an alternative course of resolution. In any event, the complainant was eventually given a compliant form. In the second case, the desk officer was counseled after he failed to retrieve a supervisor to meet with the complaints. In the status report, the Monitor found CPD to be in compliance with the complaint intake provisions.

Status Update

CPD continues to conduct inspections to ensure complaint forms and materials are available in police buildings, police vehicles, and the public places outlined in the MOA.

B. Means of Filing and Tracking Complaints

Paragraphs 37 and 38 of the MOA deal with the tracking and filing of complaints.

Monitor's Previous Assessment

Nothing Noted

Status Update

Nothing Noted

C. Investigation of Complaints

Paragraphs 39, 40, 41, 42, 43, 44 and 45 of the MOA deal with the investigation of complaints.

Monitor's Previous Assessment

In previous reports, the Monitor has expressed concerns over discrimination complaints being resolved through the CCRP process. The few cases cited by the Monitor involved the complainant's dissatisfaction with the outcome of some type of police interaction. In some cases the complainant equated this dissatisfaction with discriminatory/profiling practices. Accordingly, CPD believes the complainant could benefit from the CCRP Resolution Meeting process. Consequently, CPD has proposed modification to the procedures involving the

investigation of discrimination allegations. The proposal would assign these complaints to IIS only if there was some corroborating evidence to support the complainant's assertions.

As part of the assessment, the Monitoring Team also reviewed 12 IIS citizen complaint investigations, 11 CCRP field investigations and 13 investigations handled by the CCA. The review generated the following:

IIS Investigations

- Investigators are not always reviewing the initial stop or seizure.
- In some cases, additionally follow-up questions should have been asked, additional evidence collected or a canvass performed and further efforts made to resolve material inconsistencies.

CCRP Investigations

- The Monitor found CPD to be in partial compliance pending an agreement between CPD and DOJ regarding the discrimination complaint investigation protocol.

Time Period for Investigations

- For IIS cases, 20 of the 67 cases cleared in the fourth quarter of 2003 took longer than 90 days to resolve. For the 78 CCRP cases reviewed, 12 exceed the 90-day investigative requirement.

Status Update

In regard to the proposed modifications to the investigative protocol for discrimination complaints, CPD has nothing to report at this time.

- As stated by CPD in the previous status report, the issue for IIS often becomes one of available resources and prioritization of important controversial cases. For those cases, closures are dependent upon the workload and the number of complex cases assigned to the investigators. As such, IIS must prioritize caseload to manage the resource issue. In other instances, the case may be criminal in nature or detailed enough that additional investigative time is warranted. A summary which outlines the length of investigative time associated with those cases closed by IIS during this quarter is included in Appendix Item 16.
- For CCRP cases, the reasons for the delays are not easily apparent. In some instances making contact with complainants and/or witnesses has become problematic. In other cases, the date the complaint was received is not entered and therefore it is unknown if the case was cleared within ninety days. A summary which outlines the length of investigative time associated with those cases closed by CCRP during this quarter is included in Appendix Item 17.

D. Adjudication of Complaints

Monitor's Previous Assessment

The Monitor found CPD to be in compliance with the MOA requirement that each complaint be closed by one of the four dispositions.

Status Update

During the first quarter of 2004, 66* cases involving 73 allegations were investigated and closed through CCRP with the following dispositions:

Sustained	10
Sustained Other	0
Exonerated	14
Not Sustained	25
Unfounded	23
Case referred to IIS	1

* Appendix Item 17 indicates 77 cases closed for this period. The remaining 11 cases may not have been processed and entered into IIS records.

A total of 74 cases were closed as a result of those investigations assigned to IIS. Those cases were closed as follows:

Sustained	32
Sustained Other	0
Exonerated	2
Not Sustained	19
Unfounded	21

During this quarter, CPD also received and processed 50 reports of favorable officer conduct.

E. CCA

Monitor's Previous Assessment

The Monitor indicated that CCA is now receiving complaints filed with CPD in a timely manner. Review of sample CCA investigations, revealed the following areas of concern for the Monitoring Team:

- Investigators need to make efforts to resolve material inconsistencies in witness statements.
- The Monitor also noted inconsistencies in the application of the four closure terms called for in the MOA.

Status Update

During this quarter, after a national search, the City and the CA Partners collaboratively participated in the selection of the new Citizens Complaint Authority Director. Mr. Wendell France began his employment with the City on April 25, 2004. Mr. France is a retired major from Baltimore Police Department and has previously served as a police expert with the Department of Justice.

In addition, the Parties have also mutually selected an individual to fill the fifth Investigator position, which now bring the agency to a full complement of investigators.

Finally, the Parties are committed to working with the CCA Board acknowledging their commitment and resource needs.

The City will defer an update on these MOA provisions so that Mr. France can have an opportunity to review investigative processes, reporting procedures and to make any necessary adjustments or revisions.

Appendix Information (Document Description – Exhibit Number)

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|-----------------------------|----|
| • IIS Case Closure Summary | 16 |
| • CCRP Case Closure Summary | 17 |

V. Management and Supervision

A. Risk Management and Supervision

Paragraphs 57-66 of the MOA are relevant to risk management and supervision.

Monitor's Previous Assessment

The Monitor reported that there has been a great deal of progress toward implementation of the ETS system and indicated that the DOJ must still review and approve the ETS Protocol and Data Input Plan.

Status Update

Since the Monitor's last status report, CPD has received DOJ approval for both the ETS Protocol and Data Input Plan. Additionally, DOJ has requested approval to utilize the CPD version of the data input plan as a reference document for other police departments implementing similar systems. CPD consulted with the vendor, MEGG Associates, and has agreed to the request under the condition that both CPD and MEGG Associates receive appropriate credits upon release of the document.

Since the ETS Protocol and Data Input Plan have been approved, CPD has developed a rigorous training schedule:

- Administrator Training: A four-day course that will cover administrator duties, trainer duties, and end-user responsibilities. This training will be held between May 11 and 14, 2004. The recommended administrator positions are three from the Information Technology Management Section, one from Internal Investigations Section, one from the Inspections Section, and one from the Personnel Section. Administrators will also be expected to assist with trainer and end-user training as needed.
- Trainers: A three-day course that will cover trainer duties and end-user responsibilities. Training will begin on May 17, 2004 and end on June 4, 2004. Participants will attend training two days straight and return for third day during the last week of the training. Recommendations have been made for trainers from throughout the department, making an effort to spread expertise and minimize the impact the training will have on department wide operations. Each trainer will be expected to instruct at least two courses for the end users.
- End-user Training: An eight-hour session with classes beginning on June 7, 2004. Sworn supervisors will be the first to be trained via both day and evening classes in order to meet the projected go-live date of July 1, 2004. Civilian supervisor training will begin on June 29, 2004 and will conclude on July 6, 2004. The civilian slots were identified through a staffing request sent out last fall to the various CPD units.

Currently Megg Associates are finishing work on the requested revisions to some of the data modules. Upon completion, conversion of data from the existing databases will begin. The Monitoring Team will conduct a site visit on May 19th and May 20th. CPD believes that the beta version of the system will be available for review by the Team during this visit.

CPD also continues to monitor officer performance through monthly review of the Department Risk Management System (DRMS). During this reporting period, four officers exceed the yearly threshold value. In each instance, the supervisor met with the officer and reviewed the incidents. The intervention reports for the officers identified, in addition to the DRMS Summary for the second half of 2003, have been included in Appendix Item #18.

B. Audit Procedures

Paragraphs 67-69 of the MOA deal with Audit Procedures.

Monitor's Previous Assessment

The Monitor found CPD to be in compliance with these provisions. The Monitor did note, however, his intention to meet with CPD staff conducting the audits to discuss audit procedures.

Status Update

The Inspections Section completed the audit of those complaints resolved through CCRP for the first quarter of 2004. The audit reviewed a random sample of CCRP case closures from the five districts, Police Communications Section and the Street Corner Unit. The audit revealed the following:

- Each District/Section/Unit accurately completed the require forms, logged the complaints into the CCRP database and maintained the files in a secure area.
- The investigating supervisors did thorough investigations and notified the complainants in a timely manner.
- The Citizen Feedback/Complaint forms were also completed and forwarded to Patrol Administration.
- All District/Section/Units have forwarded their 2003 CCRP files to the Internal Investigations Section.

A summary of the audit was prepared on April 16, 2004 and is included in Appendix Item 19.

CPD also met with representatives from both the City and County Prosecutor's Offices to discuss individual and/or collective officer performance issues on January 14, 2004. Both Mr. Ernest McAdams from the City Prosecutor's Office and Mr. Karl Kadon from the Hamilton County Prosecutor's Office (via telephone) stated there are currently no areas of concern pertaining to officer, shift or unit performance. Mr. McAdams, however, raised an issue pertaining to the court procedures for Mobile Video Recorder tape footage made in connection with

Driving Under the Influence arrests. Mr. McAdams indicated he will continue to address the issue during 2004 In-service Training. The summary from the meeting is included in Appendix Item #20.

C. Video Cameras

MOA Paragraphs 70-72 deal with video camera requirements.

Monitor's Previous Assessment

The Monitor finds CPD to be in only partial compliance with these MOA provisions citing the following issues:

- Not all the cruisers are camera equipped.
- While it appears that CPD is conducting random supervisory reviews of the videotapes. It is not evident whether the reviews generated any substantive outcomes – changes in tactics, training, counseling of officers, or other results.
- There were a number of incidents in which chemical irritant was utilized for disorderly prisoners in the rear of police cruiser that was not captured by the MVR.

Status Update

- **Video Camera Implementation**
CPD has received funding in the amount of \$371,000 to purchase 62 Digital Video Data (DVD) units with the supporting hardware and equipment. The funding is in the form of a congressional line-item appropriation to the United States Department of Justice budget. The requisition paperwork necessary to purchase the 62 units was completed on March 3, 2004. The Fleet Unit anticipates delivery and installation of these units in the second quarter of 2004. Comprehensive training will be coordinated with the actual installation of these units. The Department is also working on finalizing funding and the development of a purchase order for the remaining 178 units required to digitally equip the entire cruiser fleet. CPD still hopes to have those units purchased and installed by the end of 2004.
- **Supervisory Review of Videotapes**
CPD does not currently note the nature of interventions resulting from the random supervisory review of the MVR tapes in the actual review logs. MVR footage generated in connection with force or pursuit incidents, however, are included with the investigative report packet and critiqued through the command level and Inspection Section review processes. Performance issues associated with tactical, procedural, training or legal areas are addressed during these processes.
- **Transporting Violent Prisoners**
The MOA requires manual activation of MVR equipment “to the extent practical” when transporting violent prisoners. CPD will entertain discussions with the Monitor on practicality and expectations in regards to these specific incidents.

D. Police Communications Technology

MOA Paragraphs 73 and 74 relate to police communications technology.

Monitor's Previous Assessment

The Monitor found CPD to be in compliance with these provisions.

Status Update

- **Radio Replacement – 800 MHz Project**
Motorola is still in the process of completing the infrastructure necessary to support the new system. The vendor is maintaining the construction timeline with the system projected to come on line during the third or fourth quarter of 2004 (Late September or October). Training on the new radio system will begin in early September 2004 just prior to the new radio system going on-line.

Although construction meetings are still ongoing, Communications Center operations are expected to move from the 310 Ezzard Charles Drive site into the Radcliff facility in September or October of 2004. Other police and fire units will also occupy the building. During the third quarter of 2003, the Tactical Planning Unit and the Information Technology Management Section moved from the Spinney Building and into the first floor office space of the Radcliff facility. The space created by Tactical Planning Unit and the Information Technology Management Section have allowed construction to begin for the Communications Section back-up site in the Spinney Complex. Construction is complete and the furniture has been delivered and set up. CPD is awaiting Motorola to finish installation of computers to backroom equipment. This site should be completed by June 2004 for training purposes.

- **Emergency 911 Phone System Replacement**
Replacement of the current 911 Phone System with a state of the art computer based system is currently underway. The equipment has been shipped and is currently in storage awaiting installation into the Radcliff Building. Backroom hardware installation is projected to occur in June of 2004.

Training on the new equipment will begin once occupancy of the Emergency 911 Operator portion of the Radcliff Building is permitted. Once Emergency 911 Operators are trained, call-taking operations will be switched over to the Radcliff facility. It is anticipated that the switchover to the new phone system will occur in September of 2004.

- **CAD Replacement**
Communications Section continues to research CAD replacement technology. It is anticipated that the CAD RFP will be sent out in conjunction with the Police Department's Records Management System RFP in the second quarter of 2004. CAD replacement and switchover is expected to occur sometime in mid 2005.

E. Discipline and Promotional Policy

MOA Paragraphs 75-76 are relevant to discipline and promotional policy.

Monitor's Previous Assessment

The Monitor has deferred a compliance assessment in this area. Implementation of the Employee Tracking Solution will assist in generating the data necessary to make this assessment.

Status Update

Unfortunately, much of the additional information sought by the Monitoring Team still can only be generated by the actual review of each individual case file. Although IIS and ITMS continue to work on a method to generate this information electronically, CPD anticipates that once on line, the Employee Tracking Solution will be able to readily provide this information. In the meantime, CPD will continue to provide the Monitoring Team with access to current electronic and hardcopy files so that the desired information can be obtained.

Appendix Information (Document Description – Exhibit Number)

- | | |
|--|----|
| • Department Risk Management System Member Profile Reports | 18 |
| • Citizen Complaint Resolution Process – 2003 Fourth Quarter Audit | 19 |
| • CPD-Prosecutor's Office Meeting Summary | 20 |

VII. TRAINING

A. Use of Force – Management Oversight and Curriculum

MOA Paragraphs 77 – 87 are relevant to management oversight of training and training curriculum.

Monitor's Previous Assessment

The report finds CPD to be in compliance with this provision, noting that the quality and content of the use of force training provided has been consistent with the MOA. In future quarters, the Monitor has expressed an interest in assessing the CPD evaluation procedures used for the training.

Status Update

During this reporting period, the Monitoring Team had an opportunity to meet with the Training Section staff, review curricula, and observe recruit and annual in-service training.

During this quarter, In-Service Training continued for sworn personnel. According to Training Section records, 658 were in attendance. As indicated in the last status report, the training included the following topics:

- **Critical Incident Review**
This segment included a critical review of the police intervention death of Andre Sherrer that occurred in February of 2003.
- **Legal Issue Update**
Mr. Terry Cosgrove, Police Department Chief Counsel, has reviewed changes resulting from recent legislation and judicial decisions. Students also review the proper application of charges such as Obstructing Official Business and Resisting Arrest.
- **Crime Scene Preservation**
Members from CPD's Criminal Investigation Section review crime scene investigation and techniques. Among the topics included were securing different types of crime scenes, evidence collection, and the proper interviewing of witnesses.
- **Tactical Skills**
Use of force and decision-making skills were reviewed through various tactical exercises.

In addition to the Police Recruit Training offered during this reporting quarter, the Training Section has sponsored 67 additional training courses. The courses involved 16,226 hours of training and the instruction of 1,994 students. The Department Training Record Summaries for this period are included in Appendix Item 21.

B. Handling Citizen Complaints

MOA Paragraph 82 is relevant to citizen complaint training.

Monitor's Previous Assessment

The Monitor had nothing to report for this provision.

Status Update

CPD has nothing additional to report for this reporting period. In the next status report, CPD anticipates including information from the citizen complaint block of instruction taught at the Supervisor's Training course held in April of 2004.

C. Leadership/Command Accountability Training

Monitor's Previous Assessment

The Monitor found CPD to be in compliance with this MOA provision.

Status Update

As noted by the Monitor, CPD has expanded the Supervisors' Training Course from two to three weeks. The first expanded course was conducted in April of 2004 prior to their being appointed to the supervisory position. In the next report, CPD will discuss the course curriculum.

CPD continues to develop command personnel through participation in outside training programs. During this quarter, one Lieutenant has completed studies at the Southern Police Institute (SPI). In future quarters, another Lieutenant will be scheduled to attend SPI and one Captain will be attending the FBI Academy in Quantico, Virginia.

D. Canine Training

MOA paragraph 84 is relevant to canine training

Monitor's Previous Assessment

Although the Monitor had nothing to report in this area, he expressed his desire to obtain additional information from DOJ and CPD on how other agencies use the handler controlled alert curriculum. Specifically, the Monitor cited the canine training program utilized by the Metropolitan Police Department in Washington D.C.

Status Update

In the past, CPD has attempted with little success to conduct efforts to better define the “handler controlled alert” terminology. In future meetings, CPD expects to resume discussions on this issue with the Monitoring Team.

E. Scenario Based Training

MOA paragraph 85 is relevant to scenario-based training.

Monitor’s Previous Assessment

The Monitor has been able to observe the roll call sessions and the training records and has found CPD to be in compliance with this MOA provision.

Status Update

During the first quarter of 2004, CPD provided 2,008.6 hours of Roll Call Training. Three new scenarios taken from CPD incidents were added to the library. Two other incidents added to the library occurred in Houston, Texas and Detroit, Michigan. Other areas reviewed include:

- Procedure 12.021 Visitor Identification In Police Facilities
- Procedure 12.105 Emergency Medical Service/911 Calls
- Procedure 12.140 Canine Operations
- Procedure 12.200 Emergency Hazardous Road Conditions
- Procedure 12.545 Use of Force
- Procedure 12.143 Explosive Ordinance Detection Canine Operations
- Procedure 12.300 Investigations Bombs/Threats, Disposal
- Tactical Patrol Guide
- Rules and Regulation for the Cincinnati Police Department
- Character Training and Reinforcement
- Traffic Stops Video Review

The Roll Call Training Program Calendars, scenarios, and summary for this quarter have been included in Appendix Item 22.

F. Revised Training Based on Review of Civil Lawsuits Pertaining to Officer Misconduct

MOA paragraph 86 is relevant to training based on civil lawsuits

Monitor’s Previous Assessment

The Monitor had nothing to report in this area.

Status Update

The four-hour training block of Civil Liability Training was included in the In-service Training for sworn officers, which continued into this quarter. As stated in previous reports representatives conducted the training from the City Law Department who have background in Section 42USC§1983 litigation. Using a combination of lecture and class participation through role-play scenarios, Training instructed supervisors and officers in the following topics:

- Civil vs. Criminal Liability
- Civil Case Procedures
- Origins of Liability
- Supervisory Liability
- Defense Theories
- How to Avoid Liability

During the first quarter of 2004, members of the City Law Department met with representatives from CPD to discuss recent legal actions brought against the City. The meeting was held on April 1, 2004. One of the topics discussed was Ohio's new Carrying Concealed Weapon Law. The new law is of extreme importance to CPD and the City Solicitor's Office. Accordingly, The Police Academy is working to develop and implement training on the new law and the issues affecting department personnel. Likewise, the Planning Section is reviewing policies and procedures to determine what changes may be required. A summary of the meeting is included in Appendix Item 23.

G. Orientation to the MOA

MOA paragraph 87 is relevant to MOA orientation training

Monitor's Previous Assessment

The Monitor indicated CPD is in compliance with this provision.

Status Update

CPD has nothing to report for the first quarter of 2004. In the next status report, CPD will include an update on the MOA Training offered during the Supervisor's Training Course and to the newly appointed officers from Cleveland, Ohio.

H. Field Training Officers

MOA Paragraphs 88-89 deal with the training of field training officers.

Monitor's Previous Assessment

Noting that there are still changes to be made in the FTO program as it is refined and implemented, CPD is in compliance with the MOA.

Status Update

On November 13, 2003, the Field Training Officer Panel met to discuss modifications to the FTO program. On November 17, 2003 the recommended improvements were forwarded to the senior command for review. The revised program includes an FTO application process, which includes FTO Panel review of a written application, past complaint and disciplinary history, and subject to the final approval of the Police Chief. The enhanced 40-hour Field Training Officer course was conducted between February 9 and February 13, 2004, which provided instruction to 19 new training officer candidates. The Field Training Officer Application and course curriculum have been included in Appendix Item 24.

I. Firearms Training

MOA Paragraphs 90-91 are relevant to firearms training.

Monitor's Previous Assessment

➤ The Monitor finds CPD to be in compliance with the Firearm training provisions of the MOA.

Status Update

During the first quarter, 189 officers attended Annual Firearms Qualifications Training at the Target Range.

Appendix Information (Document Description – Exhibit Number)

• Department Training Record – January 2004	21
• Department Training Record – February 2004	21
• Department Training Record – March 2004	21
• Roll Call Training Calendar/Scenarios – Fourth Quarter 2003	22
• CPD/City Solicitor's Office Meeting Summary	23
• Field Training Officer Training Course Curriculum	24

APPENDIX

• MHRT Deployment Summary	1
• MHRT Dispatch Summary	2
• Mobile Crisis Team Internal Evaluation for District One	3
• CPD Taser Deployment Summary – First Quarter 2004	4
• Table 12-1 – Use of Force Summary	5
• Table 14-1 – Chemical Irritant Summary – Group Deployments	6
• Table 14-2 – Chemical Irritant Summary – Verbal Commands	7
• Table 14-3 – Chemical Irritant Summary – Decontamination	8
• Table 14-4 – Chemical Irritant Summary – Restrained Individuals	9
• Table 18-1 – Chemical Irritant Distribution	10
• Table 20-1 – Canine Deployment Summary	11
• Table 20-2 – Canine Bite Summary	12
• Canine Bite Ratio Report – (1/1/03 to 6/30/03)	13
• Canine Bite Ratio Report – (2/1/03 to 7/31/03)	13
• Canine Bite Ratio Report – (3/1/03 to 8/31/03)	13
• Table 24-1 Special Weapon Deployment Summary	14
• 2003 Firearms Discharge Board Summary	15
• IIS Case Closure Summary	16
• CCRP Case Closure Summary	17
• Department Risk Management System Member Profile Reports	18
• Citizen Complaint Resolution Process – 2003 Fourth Quarter Audit	19
• CPD-Prosecutor’s Office Meeting Summary	20
• Department Training Record – January 2004	21
• Department Training Record – February 2004	21
• Department Training Record – March 2004	21
• Roll Call Training Calendar/Scenarios – Fourth Quarter 2003	22
• CPD/City Solicitor’s Office Meeting Summary	23
• Field Training Officer Training Course Curriculum	24